

III. General Remarks Concerning This Response

Claims 48-66 are currently pending in the present application. Claims 1-47 have been canceled herein, and claims 48-66 have been added in this response. Reconsideration of the claims is respectfully requested.

Applicant notes that the Office action acknowledged that informal drawings were filed on 12/19/2000 with the patent application. A set of formal drawings are being submitted by mail separately from this response, which is being faxed. In addition, Figure 3 is being corrected to include reference numerals.

The Office action also noted various problems with trademarks in the specification. A substitute specification is being submitted by mail separately from this response, which is being faxed.

The Office action also noted that the abstract was too long; a new abstract is being submitted herein.

IV. 35 U.S.C. § 112, ¶ 2-Indefiniteness

The Office action has rejected claims 4, 5, and 38 of the present patent application as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant notes that the rejection has been rendered moot by the cancellation of the original claims and the submission of new claims.

V. 35 U.S.C. § 102(b)-Anticipation-Davis et al.

The Office action has rejected claims 1-5, 8, 9, 11-18, 21, 22, 24-30, 33, 34, and 36-42 under 35 U.S.C. § 102(b) as anticipated by Davis, "Method for providing a roving software license from one node to another node", U.S. Patent No. 5,568,552, filed 09/07/1994, issued 10/22/1996. This rejection is respectfully traversed.

Applicant asserts that the rejection is rendered moot due to the cancellation of the previous claims and the presentation of new claims. More importantly, Davis does not disclose the claimed features, e.g., with respect to independent claim 48, the steps of:

5 during execution of the class constructor for the
 second class, attempting by the second class to verify a
 digital signature on the codebase for the first class;
 in response to a successful verification of the digital
10 signature on the codebase for the first class, successfully
 completing the instantiation of the second class;
 in response to successfully completing the
 instantiation of the second class, determining by the first
 class a codebase for the second class;
15 in response to determining by the first class the
 codebase for the second class, attempting by the first class
 to verify a digital signature on the codebase for the second
 class; and
20 in response to a successful verification of the digital
 signature on the codebase for the second class, performing
 the call from the instance of the first class to the
 instance of the second class.

25 Independent claim 48 is directed to a method; claim 54 is
 directed to an apparatus; and claim 61 is directed to a computer
 program product. Applicant's argument with respect to the
 rejection of claims 54 and 61 would be similarly applicable
 against any rejection of those claims.

30 Davis clearly does not disclose features as required by the
 language of the claims of the present application. As stated at
 MPEP § 2131: "A claim is anticipated only if each and every
 element as set forth in the claim is found, either expressly or
 inherently described, in a single prior art reference."
 Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628,
35 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical
 invention must be shown in as complete detail as is contained in
 the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226,
 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Hence, for this and
 other reasons, Davis cannot be used as an anticipatory reference,

and the rejections of the claims have been overcome, whereby Applicant requests the withdrawal of the rejections.

VI. 35 U.S.C. § 103(a)—Obviousness—Davis in view of Liu et al.

5 The Office action has rejected claims 6, 7, 10, 19, 20, 23, 31, 32, and 35 under 35 U.S.C. § 103(a) as unpatentable over Davis in view of Liu et al., "Mechanism for merging multiple policies", U.S. Patent Number 6,721,888 B1, filed 11/22/99, issued 04/13/2004. This rejection is traversed.

10 Applicant asserts that the rejection is rendered moot due to the cancellation of the previous claims and the presentation of new claims. More importantly, neither Davis nor Liu et al., neither singly nor in combination, discloses the claimed features, e.g., with respect to independent claim 48, the steps
15 of:

 during execution of the class constructor for the second class, attempting by the second class to verify a digital signature on the codebase for the first class;
 in response to a successful verification of the digital
20 signature on the codebase for the first class, successfully completing the instantiation of the second class;
 in response to successfully completing the instantiation of the second class, determining by the first class a codebase for the second class;
25 in response to determining by the first class the codebase for the second class, attempting by the first class to verify a digital signature on the codebase for the second class; and
 in response to a successful verification of the digital
30 signature on the codebase for the second class, performing the call from the instance of the first class to the instance of the second class.

35 Independent claim 48 is directed to a method; claim 54 is directed to an apparatus; and claim 61 is directed to a computer program product. Applicant's argument with respect to the rejection of claims 54 and 61 would be similarly applicable against any rejection of those claims.

Examiner bears the burden of establishing a *prima facie* case of obviousness

5 The examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant
10 to produce evidence of nonobviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled
15 to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985). In response to an assertion of obviousness by the Patent Office, the applicant may attack the Patent Office's *prima facie* determination as
20 improperly made out, present objective evidence tending to support a conclusion of nonobviousness, or both. *In re Fritch*, 972 F.2d 1260, 1265, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992).

Davis and Liu et al. clearly fail to disclose at least one feature of the present invention as recited within each
25 independent claim, notwithstanding the arguments presented by the Office action, thereby rendering Davis and Liu et al. incapable of being used as primary and secondary references as argued by the current rejection. Moreover, a hypothetical combination of Davis and Liu et al. would also fail to reach the claimed
30 invention of the present patent application. As should be recognized, because both the primary and secondary references in the rejection fail to disclose the claimed features against which the references were applied, and because the references fail to

be combinable to produce these claimed features, the rejection fails to fulfill the requirements of a proper obviousness argument.

With respect to the claims of the present patent application, Applicant respectfully submits that it would not have been obvious for one having ordinary skill in the art to have used the applied prior art references to reach the claimed invention. Hence, a rejection of the claims cannot be based upon the cited prior art to establish a *prima facie* case of obviousness. Therefore, a rejection of the claims under 35 U.S.C. § 103(a) has been shown to be insupportable in view of the cited prior art, and the claims are patentable over the applied references. Applicant respectfully requests the withdrawal of the rejection of the claims.

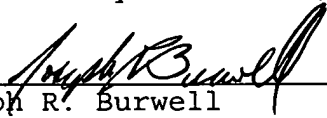
VII. Conclusion

It is respectfully urged that the present patent application is patentable, and Applicant kindly requests a Notice of Allowance.

For any other outstanding matters or issues, the examiner is urged to call or fax the below-listed telephone numbers to expedite the prosecution and examination of this application.

DATE: November 24, 2004

Respectfully submitted,



Joseph R. Burwell
Reg. No. 44,468
ATTORNEY FOR APPLICANT

Law Office of Joseph R. Burwell
P.O. Box 28022
Austin, Texas 78755-8022
Voice: 866-728-3688 (866-PATENT8)
Fax: 866-728-3680 (866-PATENT0)
Email: joe@burwell.biz